

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF BUSINESS REGULATION**

DL Enterprises d/b/a East Bay Tavern
Appellant,

v.

East Providence City Council,
Appellee.

DBR No. 14LQ019

**INTERIM ORDER GRANTING MOTION
FOR STAY AND NOTICE FOR DE NOVO HEARING**

The Appellant filed an "Emergency Stay" and Appeal of of the April 10, 2014 decision by the Appellee to suspend its Class B liquor license immediately for 30 days to the Director of Business Regulation.

The Department has jurisdiction over this matter pursuant to R.I. Gen. Laws § 3-2-1 *et seq.*, R.I. Gen. Laws § 3-5-1 *et seq.*, R.I. Gen. Laws § 3-7-1 *et seq.*, R. I. Gen. Laws § 42-14-1 *et seq.*, and R.I. Gen. Laws § 42-35-1 *et seq.*

The undersigned was delegated by the Director of the Department of Business Regulation to rule on the Emergency Stay request and to make a recommendation to the Director.

The undersigned reviewed the request for an Emergency Stay and spoke to counsel by telephone for both parties.

The undersigned has considered *Narragansett Electric Company v. William W. Harsch et al.*, 367 A.2d 195, 197 (1976) and *Department of Corrections v. Rhode Island State Labor Relations Board*, 658 A.2d 509 (R.I. 1995) in making a recommendation on the stay request.

The undersigned recommends a stay on the following conditions:

1. Appellant has ceased advertising (via radio and news print) buy one get one free drink specials as of April 7, 2014 and will continue to refrain from such advertisement while the appeal is pending;
2. Appellant will not offer any drink specials that are prohibited by R.I. Gen. Laws Section 3-7-26;
3. Appellant will place large signs with larger lettering stating: "NO DRINK SPECIALS UNTIL FURTHER NOTICE" outside the premises such that patrons are able to view the signs prior to entering the premises via all entrances.

A full hearing on the merits will be held on April 16, 2014 at 9:00 am before Hearing Officer Catherine R. Warren at the offices of the Department of Business Regulation at 1511 Pontiac Avenue, Buildings 68 and 69 in Cranston, RI 02920. At this time, the parties may revisit the issue of the stay request as well as the merits of the matter.

Dated: 4/11/14

Neena Savage
Neena Savage
Hearing Officer

INTERIM ORDER

I have read the Hearing Officer's Order and Recommendation in this matter, and I hereby take the following action with regard to the Order and Recommendation:

X ADOPT
 REJECT
 MODIFY

see email from Director 4/11/2014 @ 5:30 pm. (Attached)

Dated: _____

Paul McGreevy
Director

NOTICE OF APPELLATE RIGHTS

THIS ORDER IS REVIEWABLE BY THE SUPERIOR COURT PURSUANT TO R.I. GEN. LAWS § 42-35-15(a) WITHIN THIRTY (30) DAYS OF THE MAILING DATE OF THIS DECISION. SUCH APPEAL, IF TAKEN, MUST BE COMPLETED BY FILING A PETITION FOR REVIEW IN SUPERIOR COURT. THE FILING OF A PETITION DOES NOT STAY ENFORCEMENT OF THIS ORDER.

CERTIFICATION


I hereby certify on this 17th day of April, 2014 that a copy of the within Order was sent by email to the following:

tchapman@cityofeastprov.com

wcm@maaiialaw.com

bob@robertecraven.com

and by email to Maria D'Alessandro, Associate Director, Department of Business Regulation,
Pastore Complex, 1511 Pontiac Avenue, Cranston, RI.



Neena Savage - Re: D&L appeal

From: Paul McGreevy
To: Neena Savage <Neena.Savage@dbr.ri.gov>; Catherine Warren <Catherine.Warr...>
Date: 4/11/2014 5:30 PM
Subject: Re: D&L appeal
CC: Jenna Algee <Jenna.Algee@dbr.ri.gov>; Maria D'Alessandro <Maria.DAlessan...>

Neena,
The order is adopted this date.

Thank you

>>> Neena Savage 4/11/2014 5:28:02 PM >>>
With Order attached to Director McGreevy.

>>> Neena Savage 4/11/2014 5:27 PM >>>
I did not attach the Order. It is attached now.

>>> Neena Savage 4/11/2014 5:22 PM >>>
Dear Director McGreevy:

Attached please see emails below requesting an Emergency Stay and the City of East Providence's objection to what was agreed upon by counsel earlier today. Attached is my Interim Order Granting Motion For Stay and Notice for De Novo ("Order") Hearing. Please indicate whether you adopt, reject, or modify the Order.

Neena Sinha Savage
Hearing Officer
DBR

>>> "Robert Craven" <bob@robertecraven.com> 4/11/2014 4:14 PM >>>

Dear Ms. Savage:

I received your email relative the above matter. The City did NOT agree to the issuance of a Stay. Please correct your email confirming your order accordingly.

Thanks,

Bob Craven

From: Neena Savage [mailto:Neena.Savage@dbr.ri.gov]
Sent: Friday, April 11, 2014 3:19 PM
To: Tim Chapman; Catherine Warren; William Maaia; bob@robertecraven.com

Cc: Jenna Algee; Maria D'Alessandro
Subject: Re: D&L appeal

Dear Parties:

Due to Hearing Officer Warren's unavailability and with the parties consent, I am confirming that I facilitated a conference call between Mr. Craven, Mr. Maiaa, and me based on DL Enterprises' ("Appellant") Request for an "Emergency Stay" of the April 10th Decision of the East Providence City Council which imposed an immediate thirty (30) day suspension of Appellant's Class B Liquor License. Mr. Craven and Mr. Maiaa have consented to the following and will be submitting a stipulation confirming their agreement:

1. Appellant has ceased advertising (via radio and news print) buy one get one free drink specials as of April 7, 2014 and will continue to refrain from such advertisement while the appeal is pending;
2. Appellant will not offer any drink specials that are prohibited by R.I. Gen. Laws Section 3-7-26;
3. Appellant will place large signs with larger lettering stating: "NO DRINK SPECIALS UNTIL FURTHER NOTICE" outside the premises such that patrons are able to view the signs prior to entering the premises via all entrances.
4. A full hearing on the merits will be held on April 16, 2014 at 9:00 am before Hearing Officer Catherine R. Warren at the offices of the Department of Business Regulation at 1511 Pontiac Avenue, Buildings 68 and 69 in Cranston, RI 02920.

If you have any further questions, please contact me.

Neena Sinha Savage, Esq.
Chief of Legal Services
State of Rhode Island
Department of Business Regulation
John O. Pastore Complex
Building 68-1
Cranston, RI 02920
(401) 462-9540 (Direct Dial)
PLEASE NOTE NEW EMAIL ADDRESS: Neena.Savage@DBR.RI.GOV

THIS E-MAIL IS INTENDED ONLY FOR THE PERSON OR ENTITY TO WHICH IT IS ADDRESSED AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL OR OTHERWISE PROTECTED FROM DISCLOSURE. DISSEMINATION, DISTRIBUTION OR COPYING OF THIS E-MAIL OR THE INFORMATION HEREIN BY ANYONE OTHER THAN THE INTENDED RECIPIENT IS PROHIBITED. IF YOU HAVE RECEIVED THIS E-MAIL IN ERROR, PLEASE CALL THE RI DEPARTMENT OF BUSINESS REGULATION AT 401-462-9556. DESTROY THE ORIGINAL MESSAGE AND ALL COPIES. DO NOT CONVEY THE INFORMATION IN THE E-MAIL TO ANY THIRD PARTY.

>>> Catherine Warren 4/11/2014 12:52 PM >>>

Dear Attorneys:

I am in receipt of the D&L appeal and request for a stay of the 30 day suspension that is to start tonight in

regard to certain advertisements. I will be handling the appeal hearing.

Would the City be amenable to agree to a stay of this suspension to at least when a hearing can be scheduled on the stay request? A hearing could be scheduled today but in light of the representations that this is not a sanction for disorderly conduct and that the advertisements complained of have been canceled, it might make sense to agree to a stay on the basis of the licensee agreeing not to enter into such promotions during the pendency of the appeal and that there would be no drink specials on offer at the licensed premises TONIGHT OR TOMORROW NIGHT AND SUNDAY NIGHT and that the licensee notice the cancellation of such specials.

Please advise if this would be agreeable to the parties or not. If not, the Department could try to hold a stay hearing this afternoon or enter its own order *sua sponte* but before going forward (either way) the Department would like to hear from the City.

Thank you.

Catherine R. Warren, Esquire
Hearing Officer

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